

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 5

COLONIAL TRUCKING, INC.
Employer

and

Case 5-RC-15610

LABORERS' LOCAL 199, a/w INTERNATIONAL UNION OF NORTH AMERICA
Petitioner

and

GENERAL TEAMSTERS LOCAL UNION 326, a/w
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO
Intervenor

REPORT ON OBJECTIONS

Pursuant to a Stipulated Election Agreement¹ approved on September 8 2003², a secret-ballot election was conducted on October 2, with the following results:

Approximate number of eligible voters	14
Void ballots	0
Votes cast for Petitioner	0
Votes cast for Intervenor	2
Votes cast against participating labor organizations	12
Valid votes counted	14
Votes challenged	0
Valid votes counted plus challenged ballots	14

On October 7, the Petitioner filed timely objections to the conduct affecting the results of the election.³

¹ The unit is: "All full time and regular part time drivers employed by the Employer at its Newark, Delaware facility, but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act." The eligibility period is the payroll period ending Saturday, August 30, 2003.

² Unless otherwise noted, all dates are 2003.

³ The petition was filed on August 21. I will consider on its merits only that alleged interference which occurred during the critical period which begins on and includes the date of the filing of the petition, and extends through the election. Goodyear Tire and Rubber Co., 138 NLRB 453 (1962).

THE OBJECTIONS

Objection 1

Since on or about September 5, 2003, the Employer threatened its employees with discharge if they selected a collective bargaining representative.

Objection 2

Since on or about October 2, 2003, the Employer gave the impression that it had kept its employees' union activity under surveillance.

Objection 3

On or about October 2, 2003, the Employer interfered with the election by displaying propaganda in full view of the entrance to the polling area.

Petitioner timely filed its Objections on October 7. Evidence in support of the objections was due in the Regional Office by close of business October 16. The Petitioner did not provide any evidence in support of this objection and did not request additional time to provide evidence. Section 102.69(a) of the Board's Rules and Regulations provides that a party filing election objections must supply evidence in support of its objections "within 7 days after the filing of objections, or such additional time as the Regional Director may allow..." The obligation of the objecting party has been described as a heavy burden, for it must provide specific evidence of specific events from or about specific people. NLRB v. Claxton Mfg., Co., 613 F.2d 1364, 1366, clarified, 618 F.2d 396 (5th Cir. 1980); NLRB v. Golden Age Beverage, 415 F.2d 26, 30 (5th Cir. 1969). Conclusory allegations are not sufficient. Evidence must consist of facts, not mere accusations which yet remain to be proven. Grants Furniture Plaza, Inc., 213 NLRB 410 (1974); Anchor Inn Hotel of St. Croix v. NLRB, 644 F.2d 292 (3rd Cir. 1981). The Board held in Star Video Entertainment, 290 NLRB 1010 (1988) that the requirements of Section 102.69 are to be strictly applied.

As of the date of this decision, no evidence has been received from the Petitioner, the objecting party. Moreover, I neither granted nor was requested to grant additional time to the Petitioner to tender its supporting evidence. Finally, the objection itself contains insufficient facts to be deemed to have met Petitioner's "heavy burden." As a result, I find the Petitioner to have proffered mere conclusory allegations, insufficient to meet its burden of providing specific facts to support its objection as defined in the Board's Rules and Regulations.

Therefore, I recommend the Petitioner's objections be overruled in their entirety. Accordingly, I recommend the appropriate Certification of Results issue.

Dated at Baltimore, Maryland this 22nd day of October 2003.

(SEAL)

WAYNE R. GOLD

Wayne R. Gold, Regional Director
National Labor Relations Board, Region 5
103 South Gay Street, 8th Floor
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Under the provisions of Section 102.69 of the Board's Rules and Regulations, exceptions to this Report, if filed, must be filed with the Board in Washington, D.C. Under the provisions of Section 102.69(g) of the Board's Rules, documentary evidence, including affidavits, which a party has timely submitted to the Regional Director in support of objections and which are not included in the Report, are not a part of the record before the Board unless appended to the exceptions or opposition thereto which the party files with the Board. Failure to append to the submission to the Board copies of evidence timely submitted to the Regional Director and not included in the Report shall preclude a party from relying upon that evidence in any subsequent related unfair labor practice proceeding. Exceptions must be received by the Board in Washington by November 6, 2003.